

NORFOLK, VIRGINIA

ACTION OF THE COUNCIL

TUESDAY, DECEMBER 10, 2013 – 7:00 P.M.

Prayer offered by Councilman Paul Riddick, followed by the Pledge of Allegiance.

President Fraim moved to dispense with the reading of the minutes of the previous meeting.

Motion adopted.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn and Fraim.

No: None.

CERTIFICATION OF CLOSED MEETING

A Resolution entitled, "A Resolution certifying a closed meeting of the Council of the City of Norfolk in accordance with the provisions of the Virginia Freedom of Information Act," was introduced in writing and read by its title.

ACTION: The Resolution as introduced was **adopted**, effective December 10, 2013.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn and Fraim.

No: None.

CEREMONIAL MATTER

Mayor Fraim read the following Resolution for Nelson Mandela.

WHEREAS, Nelson Mandela was born on July 18, 1918 in Transkei, South Africa and left school when still a young man to join the African National Congress to fight against apartheid, establishing the ANC Youth League in 1944; and

WHEREAS, in 1961 he went underground to form the ANC's armed wing and in 1962 was arrested, charged with plotting to overthrow the South African government and sentenced to life imprisonment; and

WHEREAS, during his nearly three decades in prison Nelson Mandela became an inspiration and revered leader for millions of black South Africans; and

WHEREAS, upon his release in 1990, he sought a peaceful end to apartheid, working with South African President F. W. de Klerk to end violence and avert civil war, efforts that led to his being awarded the Nobel Peace Prize in 1993 along with President de Klerk; and

WHEREAS, on-going negotiations between the ANC, led by Nelson Mandela, and the de Klerk government resulted in South Africa's first all-race elections in 1994 in which Nelson Mandela was elected as South Africa's first black President; and

WHEREAS, as President, his commitment to reconciliation, to healing the wounds that divided black and white South Africans and his creation of the Truth and Reconciliation Commission which investigated apartheid crimes on both sides resulted in a peaceful transition to democracy while serving as a model for other countries; and

WHEREAS, at the time of his death on December 5, 2013 at the age of 95, Nelson Mandela was revered as the father of modern South Africa and universally respected and loved for his principled leadership, for his commitment to peace, equality and fairness and for his strong yet humble spirit, qualities he will long be remembered for.

Now, Therefore, Be It RESOLVED:

Section 1: - That the Council of the City of Norfolk mourns the passing of Nelson Mandela, one of the most inspiring figures of the 20th century, and gives thanks for his lifetime of service and sacrifice for racial equality, peace and reconciliation.

Section 2: - That this resolution shall be entered into the permanent proceedings of the City Council and shall be in effect from and after its adoption.

ACTION: The Resolution as introduced was **adopted**, effective December 10, 2013.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No: None.

Peggy Haile-McPhillips and Thomas Helm Jones, III from the Norfolk Public Library Foundation Board presented council with the 2014 Norfolk Historical calendar. Mr. Jones commented on the success of the anchor branch libraries.

PUBLIC HEARINGS

PH-1

MATTER OF A PUBLIC HEARING scheduled this day pursuant to action of the Council on **August 27, 2013**, under State law, public notice having been inserted in the local press by the City Clerk, on the application of the **City Planning Commission** to amend the **Zoning Ordinance of the City of Norfolk, 1992**, to amend **Chapter 8** to eliminate the requirement for a City Council approved **Downtown Development Certificate** for projects that are not seeking any waivers from ordinance requirements and are using the next lot area provisions for calculations of intensity.

(Passed by at the meeting of October 8, 2013)

Thereupon, an Ordinance entitled, “An Ordinance to amend and reordain portions of Section 8-0 of the **Zoning Ordinance of the City of Norfolk, 1992**, in order to eliminate the requirement for a Development Certificate in the Downtown zoning districts except where a development requires certain waivers or utilizes the gross lot area provisions,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective December 13, 2013.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No: None.

PH-2

PUBLIC HEARING scheduled this day pursuant to action of the Council **November 26, 2013**, under the State law, public notice having been inserted in the local press by the City Clerk, to hear comments on a **Lease Agreement** between the **City and Rover Marine Inc. t/a American Rover** to use the **Peace n' Plenty Berth** located at the **Waterside Marina**.

Thereupon, an Ordinance entitled, "An Ordinance approving a Lease Agreement between the City of Norfolk and Rover Marine, Inc. t/a American Rover for use of Peace N' Plenty Berth at Waterside Marina and authorizing the execution of the **Lease Agreement** on behalf of the City," was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective January 10, 2014.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No: None.

CONSENT AGENDA

C-1

Letter from the City Manager presenting recommendation of the **City Planning Commission** on the application of the **City of Norfolk on behalf of the Fairmont Park Civic League**, to amend **Zoning Ordinance of the City of Norfolk, 1992**, Sections 11-11, "Pedestrian Commercial Overlay District," and 11-41, "Lafayette Boulevard Pedestrian Commercial and Residential Overlay District (PCRO-Lafayette Boulevard)," in order to revise certain development standards.

ACTION: City Clerk authorized to advertise for a public hearing on January 14, 2014.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No: None.

C-2

Letter from the City Manager recommending a public hearing be held to hear comments on the conveyance of a **GEM Lot** to **Terrence Winfield and Betti Winfield** on property located at **1823 Tidewater Drive**.

ACTION: City Clerk authorized to advertise for a public hearing on January 14, 2014.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No: None.

C-3

Letter from the City Manager presenting recommendation of the **City Planning Commission** on the application of the **EA's Little Blessings by Eli Anthony** to a) amend *plaNorfolk2030*, from Single-Family Traditional to Commercial and b) for a rezoning from R-11 (Moderate Density Multi-Family) district to Conditional C-1 (Limited Commercial) district on property located at **956 and 960 Berkley Avenue Extended**.

ACTION: City Clerk authorized to advertise for a public hearing on January 14, 2014.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No: None.

C-4

Letter from the City Manager presenting recommendation of the **City Planning Commission** on the application of **Eastern Virginia Medical School by Mark Babashanian** for the closing, vacating and discontinuing of 0.61 acre of unimproved right-of-way, more or less, at the northwest corner of **Colley Avenue and Brambleton Avenue**.

ACTION: City Clerk authorized to advertise for a public hearing on January 14, 2014.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No: None.

C-5

Letter from the City Manager presenting recommendation of the **City Planning Commission** on the application of the **First Church of God by Reverend Harold Boyd**, to a) amend *plaNorfolk2030*, from Institutional to Single-Family Suburban and b) for a rezoning from Conditional IN-1 (Institutional) district to R-7 (Single-Family) district on property located at **8620 Granby Street**.

ACTION: City Clerk authorized to advertise for a public hearing on January 14, 2014.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No: None.

C-6

Letter from the City Manager presenting recommendation of the **City Planning Commission** on the application of **Norfolk Airport Authority by Tim Boykin**, to amend Chapter 10 of the **Zoning Ordinance of the City of Norfolk 1992**, “Table 10-A - Table of Land Uses” for Special Purpose Districts, in order to allow additional land uses within the GA (General Airport) district.

ACTION: City Clerk authorized to advertise for a public hearing on January 14, 2014.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No: None.

C-7

Letter from the City Manager advising, in accordance with **Chapter 33.1-40 of the Norfolk City Code**, of sole source procurements during the month of **October 2013**, to complete installation of a new permanent traffic signal at the intersection of **St. Paul’s Boulevard and Plume Street**.

ACTION: Received and filed.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No: None.

C-8

Letter from the City Clerk transmitting an **Abstract of Votes** cast in the City of Norfolk at the General Election on November 5, 2013, pursuant to **Section 24.2-675** of the *Code of Virginia*.

ACTION: Received and filed.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No: None.

REGULAR AGENDA

R-1

Letter from the City Manager and an Ordinance entitled, “An Ordinance authorizing the City Manager to execute an Operation and Maintenance Agreement between the **City of Norfolk and the Elizabeth River Crossings Opco, LLC** for the operation and maintenance of facilities and infrastructure within the Downtown Tunnel/Midtown Tunnel/Martin Luther King Expressway Extension,” was introduced in writing and read by its title.

Dan Montague, 4605 Krick Street, spoke in opposition to this matter.

ACTION: The Ordinance as introduced was **adopted**, effective January 10, 2014.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No: None.

R-2

Letter from the City Manager and an Ordinance entitled, “An Ordinance accepting a grant in the sum of \$320,000.00 from the **Virginia Department of Transportation, Enhancement/Transportation Alternatives Program**, and appropriating and authorizing the expenditure of the sum of \$320,000.000 in grant funds for the enhancement of the Elizabeth River Trail if and when made available by the Virginia Department of Transportation,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective December 10, 2013.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No: None.

R-3

Letter from the City Managers and the following two Ordinances:

An Ordinance entitled, “An Ordinance granting a **Special Exception** to permit the operation of an entertainment establishment on property located at **211 West 24th Street and 224 to 232 West 23rd Street,**” was introduced in writing and read by its title.

Kevin O’Connor, 103 South Arden Circle, the applicant, was present to answer questions.

ACTION: The Ordinance as introduced was **adopted**, effective December 10, 2013.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No: None.

R-3A

An Ordinance entitled, “An Ordinance granting a **Special Exception** to permit the sale of alcoholic beverages for off-premises consumption on property located at **211 West 24th Street and 224 to 232 West 23rd Street,**” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective December 10, 2013.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No: None.

R-4

Letter from the City Manager and an Ordinance entitled, “An Ordinance granting a **Special Exception** to permit the operation of a **Child Day Care Center** on property located at **3624 Sewells Point Road,**” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective December 10, 2013.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No: None.

R-5

Letter from the City Manager and an Ordinance entitled, “An Ordinance granting a **Special Exception** to permit the operation of an **Automobile and Truck** repair facility on property located at **2700 Nevada Avenue**,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective December 10, 2013.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No: None.

R-6

Letter from the City Manager and an Ordinance entitled, “An Ordinance granting a **Special Exception** to permit the operation of an entertainment establishment on property located at **806 Granby Street**,” was introduced in writing and read by its title.

Carey Ann Weinberg and Charles Burnell, applicants, 1019 Woodrow Avenue; Clint Dalton, 804 Westover Avenue, applicant and Chelsy Carter, proponent, 801 Granby Street, were all present to answer questions in favor of this matter.

ACTION: The Ordinance as introduced was **adopted**, effective December 10, 2013.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No: None.

R-7

Letter from the City Manager and an Ordinance entitled, “An Ordinance granting a **Special Exception** to permit mixed uses on property located at **2716 Granby Street**,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective December 10, 2013.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No: None.

R-8

Letter from the City Manager and an Ordinance entitled, “An Ordinance granting a **Special Exception** to permit the operation of an eating and drinking establishment on property located at **4110 Colley Avenue**,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective December 10, 2013.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No: None.

R-9

Letter from the City Manager and an Ordinance entitled, “An Ordinance granting a **Special Exception** to operate an entertainment establishment on property located at **5957 East Virginia Beach Boulevard, Suite 10**,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective December 10, 2013.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No: None.

R-10

Letter from the City Manager and an Ordinance entitled, “An Ordinance approving a Lease Agreement with the **Beacon Light Civic League, Incorporated**, for the use of certain space in the **Berkley Neighborhood Multi-Service Center**,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective January 10, 2014.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No: None.

R-11

Letter from the City Manager and an Ordinance entitled, “An Ordinance finding a public necessity for the acquisition of a permanent easement for the purpose of providing vehicular access to certain water supply systems located on the **Western Branch Reservoir**, said easement to extend across property located at **4029 Godwin Boulevard** in the City of Suffolk, Virginia; authorizing the acquisition of the easement by either purchase agreement or condemnation; and acknowledging the expenditure of the sum of \$30,400.00 to acquire such,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective December 10, 2013.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No: None.

R-12

Letter from the City Manager and an Ordinance entitled, “An Ordinance granting an additional one-half day of holiday leave to all city employees on **December 24, 2013**,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective December 10, 2013.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No: None.

R-13

Letter from the Real Estate Assessor requesting confirmation of the appointment of **Brian Mozer** to **Real Estate Appraiser II**, effective December 2, 2013.

ACTION: Appointment confirmed.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No: None.

NEW BUSINESS

1. Danny Lee Ginn, 3844 Dare Circle, commented on good government.
2. Fakuann Ali, 3601 East Ocean View Avenue, commented that a statue should be erected at the Martin Luther King Plaza or another place in respect for Sergeant William Harvey Carney.
3. Donald Hornstein, 1309 Stockley Gardens, spoke regarding his concerns for the building at 161 Granby Street.
4. Jane Bethel, 5632 Brandon Boulevard, Virginia Beach, spoke regarding a city employee's grievance.
5. James Conley, 3142 Azalea Garden Road, Apt. D101, commented on his grievance hearing and return to work status.